No. 99-1996

Supreme Court, U.S.
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In The

# Supreme Court of the United States

J.E.M. AG SUPPLY, INC. (doing business as Farm Advantage, Inc.), FARM ADVANTAGE, INC., LARRY BENZ, MERLE PRUETT (doing business as Siouxland Seeds, Inc.), KEVIN WOLFSWINKEL, TIM KAMSTRA, and TOM EISCHEN SEED & CHEMICALS,

*Petitioners,*

v.

PIONEER HI-BRED INTERNATIONAL, INC.,

*Respondent.*

**On Writ Of Certiorari To The United States Court Of Appeals For The Federal Circuit**

## JOINT APPENDIX
## VOLUME I, PAGES 1 TO 26

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**Petition For Certiorari Filed June 12, 2000**
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| 2/20/98 | 1 | COMPLAINT (Summons(es) w/notice, consents, LR16 and reports to atty for svc) Schedule Rpt ddl 06/22/98 (jh) |
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| 3/13/98 | 12 | DEMAND for jury trial by defendant Farm Advantage Inc and defendant JEM Ag Supply Inc (kims) [Edit date 03/17/98] |
| 3/13/98 | 11 | ANSWER to [1-1] and COUNTER-CLAIM by defendant JEM Ag Supply Inc. defendant Farm Advantage Inc against plaintiff Pioneer Hi-Bred Intl; answer ddl satisfied. (kims) [Entry date 04/08/98] |
| 3/16/98 | 13 | ANSWER by defendant Merle Pruett and defendant Siouxland Seeds Inc to Complaint [1-1]; Answer ddl satisfied (kims) [Edit date 03/17/98] |
| 3/16/98 | 14 | DEMAND for jury trial by defendant Merle Pruett and defendant Siouxland Seeds Inc (kims) [Edit date 03/17/98] |
| 3/16/98 | 15 | ANSWER by defendant Tom Eischen Seed to Complaint [1-1]; Answer ddl satisfied (kims) |
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| 3/16/98 | 17 | ANSWER by defendant Tim Kamstra to Complaint [1-1]; Answer ddl satisfied (kims) |
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| 3/16/98 | 21 | ANSWER by defendant Larry Benz to Complaint [1-1]; Answer ddl satisfied (kims) |
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| 3/30/98 | 23 | MOTION by defendant Farm Advantage Inc, defendant Larry Benz, defendant Merle Pruett, defendant Kevin Wolfswinkel, defendant Tim Kamstra, defendant Tom Eischen Seed for summary judgment, for expedited hearing assigned to Judge Donald E. O'Brien (kims) |
| | | * * * |
| 3/30/98 | 25 | STATEMENT of facts by defendant Farm Advantage Inc, defendant Larry Benz, defendant Merle Pruett, defendant Kevin Wolfswinkel, defendant Tim Kamstra, defendant Tom Eischen Seed in support of motion for summary judgment [23-1] (kims) |



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| 3/30/98 | 26 | AFFIDAVIT of Marvin Redenius re motion for summary judgment [23-1] (kims) |
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| | | * * * |
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| | | * * * |
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| 5/19/98 | ___ | PROPOSED Ruling on Defendants' Motion for Summary Judgment submitted by defendants (kims) |
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| | | * * * |
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| | | * * * |
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|---|---|---|
| | | * * * |
| 11/20/98 | 116 | MOTION by defendant JEM Ag Supply Inc. defendant Farm Advantage Inc. defendant Larry Benz, defendant Merle Pruett, defendant Siouxland Seeds Inc, defendant Kevin Wolfswinkel, defendant Tim Kamstra to stay assigned to Judge Mark W. Bennett (kims) |
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| | | * * * |

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

| | |
|---|---|
| PIONEER HI-BRED INTERNATIONAL, INC., Plaintiff, v. J.E.M. AG SUPPLY, INC. d/b/a FARM ADVANTAGE, INC.; FARM ADVANTAGE, INC.; LARRY BENZ; MERLE PRUETT d/b/a SIOUXLAND SEEDS, INC.; SIOUXLAND SEEDS, INC.; KEVIN WOLFSWINKEL; TIM KAMSTRA; and TOM EISCHEN SEED & CHEMICALS Defendants. | Civil Action No. C98-4016DEO **COMPLAINT FOR PATENT INFRINGEMENT** |

**COMPLAINT**

Plaintiff, Pioneer Hi-Bred International, Inc. (hereinafter "Pioneer"), for its complaint against Defendants, alleges as follows:

**NATURE OF ACTION, JURISDICTION, VENUE**

1. This action is based on patent infringement under 35 U.S.C. § 271. This Court has jurisdiction under 28



U.S.C. §§ 1331 and 1338(a) this being an action arising under the patent laws of the United States.

2. Venue is proper in this district under 28 U.S.C. § 1400(b) and *V.E. Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1575 (Fed. Cir. 1990).

**THE PARTIES**

3. Plaintiff Pioneer is a corporation organized and existing under the laws of the State of Iowa and has its principal place of business in Des Moines, Iowa.

4. Defendant J.E.M. Ag Supply, Inc. is a corporation organized under the laws of the State of Iowa and is doing business as Farm Advantage, Inc. Defendant J.E.M. Ag Supply, Inc. has a registered office and principal place of business in Clarion, Iowa.

5. Defendant Farm Advantage, Inc. is a corporation organized under the laws of the State of Iowa and is now inactive. Defendant Farm Advantage, Inc. continues to operate and has a principal place of business at Clarion, Iowa.

6. Defendant Larry Benz is an individual who is a citizen of Iowa and a resident of Melvin, Iowa.

7. Defendant Merle Pruett is an individual who is a citizen of Iowa, and resides in Cherokee, Iowa. On information and belief, Defendant Pruett is doing business as Siouxland Seeds, Inc., with the principal place of business in Cherokee, Iowa.

8. Defendant Siouxland Seeds, Inc. is a corporation organized under the laws of the State of Iowa and is now

inactive. Defendant Siouxland Seeds, Inc. continues to do business and has a principal place of business in Cherokee, Iowa.

9. Defendant Kevin Wolfswinkel is an individual who is a citizen of Iowa, and a resident of Sibley, Iowa.

10. Defendant Tim Kamstra is an individual who is a citizen of Iowa, and a resident of Sheldon, Iowa.

11. Defendant Tom Eischen Seed & Chemical Sales is an unincorporated organization doing business in Iowa, and has a principal place of business in Algona, Iowa.

**COUNT I: PATENT INFRINGEMENT**
**35 U.S.C. § 271**

12. This action is based on patent infringement and arises under the patent laws of the United States.

13. Pioneer has duly and legally obtained the patents listed below which cover the manufacture, use, sale, and offer for sale of hybrid and inbred corn seed products. A table showing each hybrid, and the patents associated with that specific hybrid, as well as the issue date for each of those patents, is shown:



**TABLE OF PATENTS-IN-SUIT**

| HYBRID | PATENT NO. | ISSUE DATE |
|---|---|---|
| 3394 | Patent 5,491,295 | 02/13/96 |
| | Patent 5,506,367 | 04/09/96 |
| | Patent 5,567,861 | 10/22/96 |
| 3489 | Patent 5,557,035 | 09/17/96 |
| | Patent 5,633,427 | 05/27/97 |
| | Patent 5,444,178 | 08/22/95 |
| | Patent 5,347,081 | 09/13/94 |
| 3559 | Patent 5,453,564 | 09/26/95 |
| | Patent 5,495,069 | 02/27/96 |
| | Patent 5,569,822 | 10/29/96 |
| | Patent 5,534,661 | 08/09/96 |
| 3730 | Patent 5,689,036 | 11/18/97 |
| | Patent 5,545,813 | 08/13/96 |
| 34R06 | Patent 5,557,035 | 09/17/96 |
| | Patent 5,633,427 | 05/27/97 |
| | Patent 5,444,178 | 08/22/95 |
| | Patent 5,347,081 | 09/13/94 |
| 35N05 | Patent 5,502,272 | 03/26/96 |
| | Patent 5,463,173 | 10/31/95 |
| | Patent 5,347,081 | 09/13/94 |
| 34K77 | Patent 5,534,661 | 07/09/96 |
| 35R57 | Patent 5,689,034 | 11/18/97 |
| 3563 | Patent 5,502,272 | 03/26/96 |
| | Patent 5,463,173 | 10/31/95 |
| | Patent 5,347,081 | 09/13/94 |
| 3751 | Patent 5,082,992 | 01/21/92 |

14. Since the issue date of each of the above-referenced patents, Plaintiff Pioneer has been and still is the owner of all right, title, and interest therein, including the right to sue for infringement for all times material hereto.

15. Plaintiff Pioneer sells products under the aforesaid patents under a limited label license which does not allow for resale, but solely for use "to produce grain and/or forage". No other licenses have been granted to these Defendants.

16. Defendants, none of which are authorized Pioneer Sales Representatives, have for a long-time past been and still are infringing one or more of these letters patent by making, using, selling, or offering for sale corn seed of the above-referenced hybrids in infringement of these patents-in-suit, and will continue to do so unless enjoined by this Court.

17. Plaintiff Pioneer has placed the required statutory notice on all bags and containers of hybrid seeds, identified above, which have been manufactured and sold by Plaintiff Pioneer under said letters patent.

**PRAYER**

**WHEREFORE,** Plaintiff demands a preliminary and final injunction against continued infringement, an accounting for damages, and an assessment of interest and costs against Defendants as follows:

A. That Defendants, and any officers, directors, agents, servants, employees, successors, assigns, and all those controlled by them, or in active participation with them, be temporarily restrained and preliminarily and



permanently enjoined from further acts of infringement of the patents-in-suit;

B. That Defendants jointly and severally be required to account for and pay over to Plaintiff all actual damages suffered by Plaintiff and all gains, profits and advantages derived by Defendants from their acts of infringement;

C. That the Court award increased damages to fully compensate Plaintiff, and for the willful and wonton nature of Defendants' aforesaid infringing acts, said award to equal at least three times the amount of Plaintiff's actual damages;

D. That Defendants be ordered to pay pre-judgment interest and costs, and further that Defendants be ordered to pay reasonable attorneys' fees to Plaintiff due to the exceptional nature of this case within the meaning of 35 U.S.C. § 285; and

E. That the Court grant Plaintiff such other further legal and equitable relief as the Court deems just.

**PIONEER HY-BRED INTERNATIONAL, INC.**

By /s/ Edmund J. Sease
Edmund J. Sease
Daniel J. Cosgrove
Heidi Cease Nebel
Jeffrey D. Harty
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ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

| | |
|---|---|
| PIONEER HI-BRED INTERNATIONAL, INC., Plaintiff, v. J.E.M. AG SUPPLY, INC. d/b/a FARM ADVANTAGE, INC.; FARM ADVANTAGE, INC.; LARRY BENZ; MERLE PRUETT d/b/a SIOUXLAND SEEDS, INC.; SIOUXLAND SEEDS, INC.; KEVIN WOLFSWINKEL; TIM KAMSTRA; and TOM EISCHEN SEED & CHEMICALS Defendants. | Civil Action No. C98-4016DEO **ANSWER OF DEFENDANT FARM ADVANTAGE UNLIMITED CORPORATION** |

Defendant Farm Advantage Unlimited Corporation states:

1. For answer to the allegations of paragraph 1, of the Complaint, Defendant denies it has infringed any valid patent. The remaining allegations of paragraph 1 are admitted.

2. The allegations of paragraphs 2 and 3 of the Complaint are admitted.



3. The allegations of paragraphs 4 and 5 are denied. Further answering, Plaintiff served the Complaint on Farm Advantage Unlimited Corporation.

4. The allegations of paragraph 6 of the Complaint are admitted.

5. For answer to paragraph 7 of the Complaint, Defendant admits Merle Pruett is an individual who is a citizen of Iowa and resides in Cherokee, Iowa. The remaining allegations of paragraph 7 are denied.

6. The allegations of paragraph 8 are denied.

7. The allegations of paragraphs 6, 9, 10 and 11 are admitted.

DEFENSE I – TO COUNT ONE

8. The allegations of paragraphs 12, 13, 14, 15, 16 and 17 of the Complaint are denied.

DEFENSE II – PATENT INVALIDITY

9. The alleged patents listed in the Table of Patents-In-Suit set out in paragraph 13 of the Complaint purport to confer upon Plaintiff Pioneer the right to exclude others from selling, offering for sale, or reproducing the listed hybrids, and the right to exclude others from using the listed hybrids in producing a hybrid or different variety therefrom.

10. The listed hybrids are corn (maize) plant hybrids and the listed patents cover corn hybrids and corn inbreds that reproduce sexually (from seeds).

11. The listed patents are invalid because corn (maize) plants are not patentable subject matter within the scope of 35 U.S.C. § 101.

DEFENSE III – FALSE MARKING

12. If Pioneer contends its label prohibits propagation or multiplication of seed in any Pioneer bags of hybrid seed sold to Defendants, Pioneer is in violation of 7 U.S.C. § 2568.

DEFENSE IV – FAILURE TO COMPLY WITH REQUIREMENTS FOR PLANT VARIETY PROTECTION

13. Plaintiff Pioneer has failed to file an application for a certificate of Plant Variety Protection that complies with the requirements of 7 U.S.C. § 2422 for any of the hybrids listed in paragraph 13 of the Complaint.

14. No certificate of Plant Variety Protection has been issued to Plaintiff Pioneer pursuant to 7 U.S.C. §§ 2482 and 2483 for any of the hybrids listed in paragraph 13 of the Complaint.

15. Defendants have not committed any acts of infringement defined in 7 U.S.C. § 2541.

DEFENSE V – ACQUIESCENCE

16. Plaintiff's claims are barred by the doctrine of acquiescense or laches.



DEFENSE VI – WAIVER

17. Plaintiff's claims are barred by the doctrine of waiver.

DEFENSE VII – ESTOPPEL

18. Plaintiff's claims are barred by the doctrine of estoppel.

PRAYER ON PLAINTIFF'S CLAIMS

WHEREFORE, Defendant and Farmers Advantage Unlimited Corporation prays that the Court enter judgment:

A. Denying all of Plaintiff's claims;

B. That Defendants, their employees, agents, assigns and purchasers are legally entitled to sell, offer for sale, or reproduce seed contained in Pioneer bags of seed purchased by Defendants, and are legally entitled to use such seed in producing or developing a hybrid or different variety therefrom;

C. Denying a preliminary or permanent injunction;

D. Awarding Defendants reasonable attorney fees due to the exceptional nature of this case within the meaning of 35 U.S.C. § 285; and

E. Taxing costs to Plaintiff.

FIRST COUNTERCLAIM – PATENT INVALIDITY

19. Plaintiffs/Counterclaimant Defendant Pioneer is a corporation organized under the laws of Iowa, having its principal place of business in Des Moines, Iowa.

20. Defendant/Counterclaimant Farm Advantage Unlimited Corporation is a corporation organized under the laws of Iowa, having its principal place of business in Clarion, Iowa.

21. This Counterclaim arises under the patent laws of the United States, 35 U.S.C. § 1, et seq., and under 28 U.S.C. §§ 2201 and 2202. This Court has jurisdiction of the action under 28 U.S.C. § 1338(a) and this Counterclaim is filed pursuant to Federal Rule of Civil Procedure 13.

22. The alleged patents listed in the Table of Patents-In-Suit set out in paragraph 13 of the Complaint purport to confer upon Plaintiff Pioneer the right to exclude others from selling, offering for sale, or reproducing the listed hybrids, and the right to exclude others from using the listed hybrids in producing a hybrid or different variety therefrom. The listed hybrids are corn (maize) plant hybrids and the listed patents cover corn hybrids and corn inbreds. Certain of the listed patents purport to confer upon Plaintiff Pioneer the right to exclude others from selling, offering for sale, or reproducing certain corn inbreds, and the right to exclude others from using such corn inbreds in producing a hybrid or different variety therefrom.

23. The listed patents that claim hybrid corn plant and seeds as the invention, claim the invention relates to



the hybrid seed and the hybrid plant produced from the seed.

24. The patents that claim inbred corn lines as the invention allege that the invention relates to the plants and seeds of the particular inbred corn line and further relates to the hybrid corn seeds and plants produced by crossing the particular inbred line with another corn line or plant.

25. The patents listed in paragraph 13 of the Complaint, which purport to confer plant variety protection rights on Pioneer for certain sexually reproducing plants, are invalid because corn (maize) plants are not patentable subject matter within the scope of 35 U.S.C. § 101.

26. Defendant is entitled to a judgment declaring all of the patents listed in paragraph 13 of the Complaint invalid.

WHEREFORE, Defendant Farm Advantage Unlimited Corporation prays that the Court enter judgment:

A. Declaring all of the patents listed in paragraph 13 of the Complaint invalid;

B. That Defendant, its employees, agents, assigns and purchasers are legally entitled to sell, offer for sale, or reproduce seed contained in Pioneer bags of seed purchased by Defendant, and are legally entitled to use such seed in producing or developing a hybrid or different variety therefrom;

C. Awarding Defendant reasonable attorney fees due to the exceptional nature of this case within the meaning of 35 U.S.C. § 285; and

D. Taxing costs to Plaintiff.

SECOND COUNTERCLAIM – FALSE MARKING

28. This Court has jurisdiction of this Counterclaim under 28 U.S.C. §§ 1331 and 1338(a) and this Counterclaim is filed pursuant to Federal Rule of Civil Procedure 13.

28. In paragraph 15 of the Complaint Pioneer alleges that the bags of seed sold to Defendants contained label marking "which does not allow for resale, but solely for use 'to produce grain and/or forage' ".

29. A certificate of Plant Variety Protection has not been issued to Plaintiff Pioneer pursuant to 7 U.S.C. §§ 2482 and 2483 for any of the listed hybrids Pioneer alleges have been sold in bags displaying these label markings.

30. Pioneer therefore has violated 7 U.S.C. 2568(a)(3) by falsely marking its seed bags.

31. The business of Farm Advantage has been damaged or is likely to be damaged by Pioneer's acts of false marking, or is subjected to competition in connection with which the act of false marking is performed.

WHEREFORE, Defendant/Counterclaimant Farm Advantage Unlimited Corporation prays that the Court enter judgment:

A. Permanently enjoining Pioneer from violating 7 U.S.C. § 2568(a)(3) by falsely marking its seed bags;

B. That Defendant/Counterclaimant, its employees, agents, assigns and purchasers are legally entitled to utilize seed contained in Pioneer bags of seed purchased by Defendant/



Counterclaimant without interference or restriction by Plaintiff/Counterclaim-Defendant Pioneer;

C. Awarding Defendant/Counterclaimant reasonable attorney fees permitted under 7 U.S.C. § 2565 in exceptional cases; and

D. Taxing costs to Plaintiff/Counterclaim-Defendant Pioneer.

/s/ Bruce E. Johnson
Bruce E. Johnson

/s/ S. P. DeVolder
S. P. DeVolder

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ATTORNEYS FOR DEFENDANT
FARM ADVANTAGE UNLIMITED
CORPORATION

[Proof Of Service Omitted In Printing]

**IN THE UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF IOWA**
**WESTERN DIVISION**

| | | |
|---|---|---|
| PIONEER HI-BRED INTERNATIONAL, INC., | ) | |
| Plaintiff, | ) | Civil Action No. C98-4016 DEO |
| v. | ) | |
| J.E.M. AG SUPPLY, INC., d/b/a FARM ADVANTAGE, INC.; FARM ADVANTAGE, INC.; LARRY BENZ; MERLE PRUETT, d/b/a SIOUXLAND SEEDS, INC.; SIOUXLAND SEEDS, INC.; KEVIN WOLFSWINKEL; TIM KAMSTRA; and TOM EISCHEN SEED & CHEMICALS, | ) | |
| Defendants. | ) | |

**AFFIDAVIT OF JEAN BROMERT**

I, Jean Bromert, being first duly sworn, do hereby declare and state as follows:

1. I am a corporate patent counsel for Pioneer Hi-Bred International, Inc., located in Johnston, Iowa.

2. I have worked for Pioneer Hi-Bred International, Inc. in various capacities for the last fifteen years, including the past year as corporate counsel and past two months as corporate patent counsel



3. I am familiar with the facts of this case and the motions presented by Farm Advantage.

4. On or about April 9, 1998, a computer database search was conducted by Ken Braun, Librarian for Pioneer Hi-Bred International, Inc.

5. The computer database search sought any utility patent in which the word "plant" appeared in the claims.

6. The database source for utility patents was provided by The Dialog Corporation under the file CLAIMS®/U.S. PATENTS. This database included utility patents available from 1950 forward.

7. The search under the file CLAIMS®/U.S. PATENTS excluded any plant patents issued under the Plant Patent Act and was limited to only utility patents falling under Class 800 and Class 435. Class 800 is titled "Multicellular Living Organisms and Unmodified Parts Thereof." This class includes multicellular organisms, including plants as well as genetically modified seeds. Some examples of traditional or conventional breeding techniques used in plants covered by the class included self-pollination, inbred lines, cross-pollination, hybridization, selection, emasculation, cytoplasmic male sterility, etc. Class 435 is titled "Chemistry: Molecular Biology and Microbiology." This class includes processes for cultivating or culturing seed plants and genetic engineering where change in plant cells are produced by artificially inducing a structure change in a gene.

8. This search produced 1,625 utility patents in which the word "plant" appeared in the claims.

9. The 1,625 utility patents represented at least 514 different assignees.

I hereby declare that the foregoing is true and correct to the best of my knowledge and belief.

4-16-98
Date

/s/ Jean Bromert
Jean Bromert

[Jurat Omitted In Printing]

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**IN THE UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF IOWA**
**WESTERN DIVISION**

| | | |
|---|---|---|
| PIONEER HI-BRED INTERNATIONAL, INC., Plaintiff, v. J.E.M. AG SUPPLY, INC., d/b/a FARM ADVANTAGE, INC.; FARM ADVANTAGE, INC.; LARRY BENZ; MERLE PRUETT, d/b/a SIOUXLAND SEEDS, INC.; SIOUXLAND SEEDS, INC.; KEVIN WOLFSWINKEL; TIM KAMSTRA; and TOM EISCHEN SEED & CHEMICALS Defendants. | ) | Civil Action No. C98-4016DEO |

**AFFIDAVIT OF BRUCE A. HALL**

I, Bruce A. Hall, hereby declare and state as follows:

1. I am currently Assistant Secretary of Pioneer Hi-Bred International, Inc. ("Pioneer") and have been employed at Pioneer for approximately 16 years. As part of my job responsibilities at Pioneer, I am familiar with this litigation and have reviewed the papers filed herein, including Defendant's Motion for Summary Judgment and supporting papers.

2. Attached as Exhibit B1 to this affidavit is a true and correct copy of an article appearing in *The Des Moines Register* on Wednesday, February 25, 1998, page 10S, 8S.

In that article, Marvin Redenius, co-owner of Farm Advantage, acknowledged that his company had sold Pioneer seed products and that it was not an authorized dealer.

3. None of the Defendants named in the captioned action are authorized sales representatives, dealers or distributors of Pioneer-brand products.

4. Further, in Defendants' statement of material facts in support of Defendants' Motion for Summary Judgment, Defendants admitted that:

> As just one aspect of its full service Farm Advantage purchased some bags of Pioneer Hi-Bred corn seed to resell to some of its farmer customers.

(Statement of material facts, ¶ 1).

5. Further, in the affidavit of Marvin Redenius submitted in support of Defendants' Motion for Summary Judgment, Mr. Redenius admitted: "Farm Advantage's intention is only to resell to Farm Advantage customers bags of Pioneer seed it has purchased." (Affidavit of Marvin Redenius, ¶ 4).

6. Because the label license attached to each bag of Pioneer-brand seed limits the use of that seed for planting only, and does not provide for resale, any reselling of the seed without a license from Pioneer would be in violation of that label license.

/s/ Bruce A. Hall
Bruce A. Hall

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**PLAINTIFF'S EXHIBIT B1**

THE DES MOINES REGISTER ■ WEDNESDAY, FEBRUARY 25, 1998

**PIONEER CLAIMS INFRINGEMENT OF SEED PATENTS**

■ It sues, alleging unauthorized sales of its corn hybrids.

**By ANNE FITZGERALD**

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Pioneer Hi-Bred International Inc. has sued a Clarion supplier of farm chemical and agricultural seed products, alleging that the company made unauthorized sales of Pioneer corn hybrids in violation of federal patent laws.

Filed late last week in the western division of the U.S. District Court for the Northern District of Iowa, which is located in Sioux City, the lawsuit names Farm Advantage Inc. of Clarion as a defendant. It also names as defendants several Farm Advantage sales representatives, including Larry Benz of Melvin; Merle Pruett of Cherokee; Kevin Wolfswinkel of Sibley; Tim Kamstra of Sheldon, and Tom Eischen Seed & Chemical Sales of Algona.

Pioneer is seeking injunctive relief and unspecified damages.

If parties not licensed to represent Pioneer sell its products, the company may not be able to ensure the quality of its seed products or back them up with customer service, said Bruce Hall, who is in charge of trademarks for the Des Moines-based plant genetics giant.

"From what we understand, they are selling our product, but we don't know about the quality of that product," he said.

The corn hybrids at issue are patented products in bags bearing a label that precludes their resale, he said. The lawsuit comes at a time when Pioneer and other major seed companies are seeking to patent their products – increasingly, high-dollar, high-tech agricultural seeds requiring hefty investments for development.

Marvin Redenius, co-owner of Farm Advantage, declined to comment, but acknowledged that his company had sold Pioneer seed products in the past even though it was not authorized to do so.

Several of the other defendants said they knew little about the lawsuit and deferred to Farm Advantage officials.

"This is all kind of interesting," said Pruett, who sells various companies' agricultural seed and farm chemical products through his business, Siouxland Seeds Inc. He said he began selling products, including seed corn, last year for Farm Advantage, but has not sold any Pioneer hybrids.

Benz, a row crop and livestock producer, is in the same boat: "I sell for them, but through my farm network here, I haven't sold a bag" of Pioneer seed.

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